THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.4378 OF 2004

Disposed of on 19-08-2005.

Between:

D.Sushilamma ….petitioner

And

Government of A.P. and others….respondents

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.4378 OF 2004

O R D E R :

1. This writ petition has been filed by the petitioner praying to issue a Writ of Certiorari by declaring the impugned order passed in LDN.No.2906/2003-04, dated 12.1.2004 passed by the 2nd respondent-District Panchayat Officer, Nellore as arbitrary, illegal and without jurisdiction and quash the same.

2. The petitioner claims that one Bal Ram Reddy was the owner of house bearing Assessment No.553 of Utukuru Gram Panchayat, Vidavalur Mandal, Nellore District. He died on 11.5.1995. The petitioner filed O.S.No.96 of 1995 to declare her as legal heir of deceased Bal Ram Reddy basing on the will dated 31.7.1993. The said suit ended in decree on 27.11.1995. Basing on the decree she submitted an application for mutation of her name in the records of the Gram Panchayat, Utukuru. Her application was considered and her name came to be entered in the records of the Gram Panchayat, Utukuru. Subsequently, 3rd respondent submitted an application for mutation of her name as owner of the property bearing Assessment No.553 in the records of the Gram Panchayat, Utukuru basing on an agreement of sale dated 1.7.1994 executed by Bala Ram Reddy. His application came to be allowed and his name came to be mutated in the records of the Gram Panchayat as the owner of the property bearing Assessment No.553. Thereafter the writ petitioner filed objections before the District Panchayat Officer, Nellore-2nd respondent. Her objections were considered and the name of 3rd respondent was removed from the Panchayat records in respect of house bearing Assessment No.553 and the name of the petitioner came to be settled by an order dt.17.9.2003. Thereafter, 3rd respondent filed an application for mutation of the house in her name in the Gram Panchyat records. The District Panchayat Officer, Nellore-2nd respondent considered the material brought on record and cancelled memo dated 13.5.2002 and restored the earlier office memo by an order dated 12.1.2004. Assailing the order dated 12.1.2004 passed by the 2nd respondent, this writ petition has been filed.

3. Learned counsel appearing for the petitioner submits that the 2nd respondent has no jurisdiction to review his own order since review power is not traceable to any of the powers of Andhra Pradesh Panchayat Act. He further submits that the claim of the petitioner is based on a decree granted by the Civil Court and therefore the 2nd respondent is justified in issuing the earlier proceedings incorporating the name of the petitioner in the Gram Panchayat records.

4. Though 3rd respondent received notice and entered appearance through a counsel when this writ petition came up for hearing neither 3rd respondent nor his counsel was present.

5. It is no more in dispute that the petitioner based her claim on a decree granted by the Civil Court. The 2nd respondent having considered her claim and ordered inclusion of her name in the Gram Panchayat records is not justified in recalling memo dated 13.5.2002 on restoring the earlier office memo dated 12.1.2004. Practically, 2nd respondent reviewed his earlier order dated 13.5.2002. Therefore, the impugned order in the writ petition is set aside.

6. Accordingly, this writ petition is allowed by setting aside the impugned order in LDN.No.2906/2003-04, dated 12.1.2004 passed by the 2nd respondent-District Panchayat Officer, Nellore. No costs.

Dated: 19-08-2005. (B.Seshasayana Reddy,J)

Tnb

Cc one week.

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.4378 OF 2004

Dated: 19-08-2005.